

CLOSED

**U.S. District Court  
Western District of North Carolina (Charlotte)  
CRIMINAL DOCKET FOR CASE #: 3:16-mj-00345-DSC All Defendants**

Case title: USA v. Boggs  
Other court case number: 1:16mj406 EDVA

Date Filed: 09/07/2016  
Date Terminated: 09/08/2016

Assigned to: Magistrate Judge David S.  
Cayer

**Defendant (1)**

**Andrew Otto Boggs**  
*TERMINATED: 09/08/2016*  
*also known as*  
Incursio  
*TERMINATED: 09/08/2016*

represented by **Caleb Hill Newman**  
Federal Defenders of WNC, Inc.  
129 West Trade St., Suite 300  
Charlotte, NC 28202  
704-374-0720  
Fax: 704-374-0722  
Email: Caleb\_Newman@fd.org  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: Public Defender or  
Community Defender Appointment*

**Pending Counts**

None

**Disposition**

**Highest Offense Level (Opening)**

None

**Terminated Counts**

None

**Disposition**

**Highest Offense Level (Terminated)**

None

**Complaints**

None

**Disposition**

**Plaintiff****USA**

represented by **Thomas A. O'Malley**  
 U.S. Attorney's Office  
 227 W. Trade St.  
 1700 Carillon  
 Charlotte, NC 28202  
 704/344-6222  
 Fax: 704/227-0254  
 Email: tom.o'malley@usdoj.gov  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: Assistant US Attorney*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
09/07/2016	<u>1</u>	EDVA Sealed CRIMINAL COMPLAINT as to Andrew Otto Boggs (Attachments: # <u>1</u> Affidavit, # <u>2</u> Sealing Order)(tob) (Entered: 09/07/2016)
09/07/2016		Set/ Deadlines/Hearings as to Andrew Otto Boggs: Initial Appearance - Rule 5 set for 9/8/2016 10:45 AM in Magistrate Courtroom 1-3, 401 W Trade St, Charlotte, NC 28202 before Magistrate Judge David S. Cayer. (tob) (Entered: 09/07/2016)
09/08/2016	<u>2</u>	AMENDED Sealing Order by USA as to Andrew Otto Boggs (tob) (Entered: 09/08/2016)
09/08/2016		Case unsealed as to Andrew Otto Boggs per amended sealing order and AUSA O'Malley. (tob) (Entered: 09/08/2016)
09/08/2016		Minute Entry: INITIAL APPEARANCE in Rule 5(c)(3) Proceedings as to Andrew Otto Boggs held before Magistrate Judge David S. Cayer. Defendant advised of rights & charges. Defendant moved for appointment of counsel. Defendant filed a financial affidavit. Court approved appointment of counsel of FDO for IA. Defendant waived identity hearing. Defendant ordered to appear in charging district. Government attorney: Tom O'Malley. Defendant attorney: Caleb Newman. Court Reporter: DCR. (tob) (Entered: 09/08/2016)
09/08/2016	<u>3</u>	WAIVER of Rule 5(c)(3) Hearings by Andrew Otto Boggs (tob) (Entered: 09/08/2016)
09/08/2016	<u>4</u>	CJA 23 (Ex Parte) Financial Affidavit by Andrew Otto Boggs (tob) (Entered: 09/08/2016)
09/08/2016		<b>ORDER APPOINTING COMMUNITY DEFENDER Caleb Newman as to Andrew Otto Boggs. Signed by Magistrate Judge David S. Cayer on 9/8/16. (tob)</b> (Entered: 09/08/2016)
09/08/2016	<u>5</u>	<b>Unsecured Bond Entered (<i>Restricted</i>) as to Andrew Otto Boggs in amount of \$ 25,000., Signed by Magistrate Judge David S. Cayer on 9/8/16. (tob)</b> (Entered: 09/08/2016)

09/08/2016	<u>6</u>	<b>ORDER (Restricted) Setting Conditions of Release as to Andrew Otto Boggs (1) 25KU. Signed by Magistrate Judge David S. Cayer on 9/8/16. (tob)</b> (Entered: 09/08/2016)
09/08/2016	<u>7</u>	<b>ORDER holding defendant to answer and to appear in district of prosecution or district having Probation Jurisdiction as to Andrew Otto Boggs. Signed by Magistrate Judge David S. Cayer on 9/8/16. (tob)</b> (Entered: 09/08/2016)
09/08/2016		Notice to EDVA of a Rule 5 or Rule 32 Initial Appearance as to Andrew Otto Boggs. Your case number is: 1:15MJ406. Using your PACER account, you may retrieve the docket sheet and documents. The clerk will transmit any necessary sealed document under separate cover. (Documents: <u>4</u> Financial Affidavit - CJA23, <u>3</u> Waiver of Rule 5(c)(3) Hearings, <u>6</u> Order Setting Conditions of Release, <u>5</u> Bond, <u>7</u> Order Rule 5 Bond Release ) <i>(If you wish to designate a different email address for future transfers, send a request to InterDistrictTransfer_TXND@txnd.uscourts.gov.)</i> (tob) (Entered: 09/08/2016)

PACER Service Center			
Transaction Receipt			
09/09/2016 11:23:18			
PACER Login:	brimby2001	Client Code:	
Description:	Docket Report	Search Criteria:	3:16-mj-00345-DSC
Billable Pages:	2	Cost:	0.20

UNITED STATES DISTRICT COURT  
Western District of North Carolina

UNITED STATES OF AMERICA

v.

Andrew Otto Boggs  
*Defendant*

)  
)  
) Case No: 3:16-mj-00345-DSC

) Charging District's Case No: 1:16MJ406  
)  
)

**WAIVER OF RULE 5 & 5.1 HEARINGS**  
**(Complaint or Indictment)**

I understand that I have been charged in another district, the Eastern District of Virginia

I have been informed of the charges and of my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;
- (3) production of the warrant, a certified copy of the warrant, or a reliable electronic copy of either;
- (4) a preliminary hearing within 14 days of my first appearance if I am in custody and 21 days otherwise – unless I am indicted – to determine whether there is probable cause to believe that an offense has been committed;
- (5) a hearing on any motion by the government for detention;
- (6) request transfer of the proceedings to this district under Fed. R. Crim. P. 20, to plead guilty.

I agree to waive my right(s) to:

- ☒ an identity hearing and production of the warrant.
- ☐ a preliminary hearing.
- ☐ a detention hearing.
- ☐ an identity hearing, production of the warrant, and any preliminary or detention hearing to which I may be entitled in this district. I request that those hearings be held in the prosecuting district, at a time set by that court.

I consent to the issuance of an order requiring my appearance in the prosecuting district where the charges are pending against me.

Date: September 8, 2016

*Andrew Boggs*

*Defendant's Signature*

*Caleb Newman*

*Signature of defendant's attorney (if any)*

Caleb Newman

*Printed name of defendant's attorney (if any)*

**UNITED STATES DISTRICT COURT**  
Western District of North Carolina

UNITED STATES OF AMERICA

VS.

**APPEARANCE BOND**

Case Number: 3:16-mj-00345-DSC

Andrew Otto Boggs

Non-Surety: [ ] I, the undersigned defendant acknowledge that I and my . . .

Surety: We, the undersigned, jointly and severally acknowledge that we and our . . .  
personal representatives, jointly and severally, are bound to pay to the United States of America the sum of  
\$25,000 (unsecured), and there has been deposited in the Registry of the Court the sum of  
\$ \_\_\_\_\_ in cash or \_\_\_\_\_ (describe other security).

The conditions of this bond are that the defendant Andrew Otto Boggs  
is to appear before this court and at such other places as the defendant may be required to appear, in accordance  
with any and all orders and directions relating to the defendant's appearance in this case, including appearance for  
violation of a condition of defendant's release as may be ordered or notified by this court or any other United  
States District Court to which the defendant may be held to answer or the cause transferred. The defendant is to  
abide by any judgment entered in such matter by surrendering to serve any sentence imposed and obeying any  
order or direction in connection with such judgment.

It is agreed and understood that this is a continuing bond (including any proceeding on appeal or review)  
which will continue until such time as the undersigned are exonerated.

If the defendant appears as ordered or notified and otherwise obeys and performs the foregoing conditions of  
this bond, then this bond is to be void, but if the defendant fails to obey or perform any of these conditions,  
payment of the amount of this bond will be due forthwith. Forfeiture of this bond for any breach of its conditions  
may be declared by any United States District Court having cognizance of the above entitled matter at the time of  
such breach and if the bond is forfeited and if the forfeiture is not set aside or remitted, judgment may be entered  
upon motion in such United States District Court against each debtor jointly and severally for the amount above  
stated, together with interest and costs, and execution may be issued and payment secured as provided by the  
Federal Rules of Criminal Procedure and any other laws of the United States.

This bond is signed on September 8, 2016 at Charlotte, North Carolina

Date

Place

Defendant: Andrew Boggs Address: 150 Hulda Street  
Wilkesboro, NC

Surety: \_\_\_\_\_ Address: \_\_\_\_\_

Surety: \_\_\_\_\_ Address: \_\_\_\_\_

Signed and acknowledged before me on September 8, 2016 Tammy O'Brien

Date

Deputy Clerk

Approved: \_\_\_\_\_

David S. Cayer

United States Magistrate Judge

UNITED STATES DISTRICT COURT  
Western District of North Carolina

UNITED STATES OF AMERICA

v.

Andrew Otto Boggs  
*Defendant*

Case Number: 3:16-mj-00345-DSC

**ORDER SETTING CONDITIONS OF RELEASE**

IT IS ORDERED that the defendant's release is subject to these conditions:

- (1) The defendant must not violate any federal, state or local law while on release.
- (2) The defendant must cooperate in the collection of a DNA sample if the collection is authorized by 42. U.S.C. §14135a.
- (3) The defendant must immediately advise the court, defense counsel, and the U.S. Attorney in writing before any change in address or telephone number.
- (4) The defendant must appear in court as required and must surrender to serve any sentence imposed.

The defendant must appear at (if blank, to be notified) \_\_\_\_\_  
*Place*  
 \_\_\_\_\_ on \_\_\_\_\_  
*Date and Time*

**Release on Personal Recognizance or Unsecured Bond**

IT IS FURTHER ORDERED that the defendant be released on condition that:

- ☒ (5) The defendant promises to appear in court as required and surrender to serve any sentence imposed.
- ☒ (6) The defendant executes an unsecured bond binding the defendant to pay to the United States the sum of Twenty five thousand (unsecured) dollars (\$25,000) in the event of a failure to appear as required or surrender to serve any sentence imposed.





**ADDITIONAL CONDITIONS OF RELEASE**

- ☒ (q) submit to any testing required by the pretrial services office or the supervising officer to determine whether the defendant is using a prohibited substance. Any testing may be used with random frequency and include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing. The defendant must refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing or monitoring which is (are) required as a condition of release.
- ☒ one positive drug screen requires return to court.
- ☒ (r) participate in a program of inpatient or outpatient **substance abuse** therapy and counseling if the pretrial services office or supervising officer considers it advisable.
- ☐ attend and complete the Community Housing and Matrix Program (CHAMP) at the McLeod Residential Re-Entry Center in Charlotte, NC. The defendant, upon release, shall be transported by the most direct means and way possible to the McLeod Center. Upon arrival, defendant shall submit to the Residential Re-Entry Center for a period not to exceed ninety (90) days under the guidance and direction of the United States Probation Office. Upon completion of treatment or release from the program, defendant shall be transported back to the United States Probation Office in Charlotte, NC by the most direct means and way possible. Upon the arrival at the United States Probation Office further proceedings shall be scheduled to determine if defendant shall be allowed to continue to be released on terms and conditions of pretrial release.
- ☐ (s) participate in one of the following location monitoring program components and abide by its requirements as the pretrial services officer or supervising officer instructs.
- ☐ (i) **Curfew.** You are restricted to your residence every day ☐ from \_\_\_\_\_ to \_\_\_\_\_, or ☐ as directed by the pretrial services office or supervising officer; or
- ☐ (ii) **Home Detention.** You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities pre-approved by the pretrial services office or supervising officer; or
- ☐ (iii) **Home Incarceration.** You are restricted to 24-hour-a-day lock-down except for medical necessities and court appearance or other activities specifically approved by the court.
- ☐ (t) submit to the **location monitoring** indicated below and abide by all of the program requirements and instructions provided by the pretrial services officer or supervising officer related to the proper operations of the technology.
- ☒ The defendant must pay all or part of the cost of the program based upon your ability to pay as the pretrial services office or supervising officer determines.
- ☐ (i) Location monitoring technology as directed by the pretrial services office or supervising officer;
- ☐ (ii) Radio Frequency (RF) monitoring;
- ☐ (iii) Passive Global Positioning Satellite (GPS) monitoring;
- ☐ (iv) Active Global Positioning Satellite (GPS) monitoring (including "hybrid" (Active/Passive) GPS);
- ☐ (v) Voice Recognition monitoring.
- ☒ (u) report as soon as possible, to the pretrial services office or supervising officer any contact with any law enforcement personnel, including, but not limited to, any arrest, questioning, or traffic stop.
- ☐ (v) support his/her minor children or other dependants.
- ☒ (w) submit his or her person, residence, office, vehicle and/or any computer system including computer data storage media, or any electronic device capable of storing, retrieving, and/or accessing data to which they have access or control, to a search, from time to time, conducted by any United States Probation Officer/Pretrial Officer and such other law enforcement personnel as the probation officer may deem advisable, without a warrant. The defendant shall warn other residents or occupants that such premises, vehicles, or electronic devices may be subject to searches pursuant to this condition.
- ☐ (x) comply with the standard sex offender conditions and any optional conditions as ordered (see attachment).
- ☒ (y) The defendant shall not open any accounts on the Internet.  
The defendant is ordered to appear on 9/14/16 @ 2:00 pm at the  
US District Court for the Eastern District of Virginia  
Alexandria Albert V. Bryan U.S. Courthouse  
Courtroom 500  
401 Courthouse Square  
Alexandria, VA 22314



**ADVICE OF PENALTIES AND SANCTIONS**

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

Violating any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of your release, an order of detention, a forfeiture of any bond, and a prosecution for contempt of court and could result in imprisonment, a fine, or both.

While on release, if you commit a federal felony offense the punishment is an additional prison term of not more than ten years and for a federal misdemeanor offense the punishment is an additional prison term of not more than one year. This sentence will be consecutive (i.e., in addition to) to any other sentence you receive.

It is a crime punishable by up to ten years in prison, and a \$250,000 fine, or both, to: obstruct a criminal investigation; tamper with a witness, victim, or informant; retaliate or attempt to retaliate against a witness, victim, or informant; or intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If, after release, you knowingly fail to appear as the conditions of release require, or to surrender to serve a sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more – you will be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years – you will be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony – you will be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor – you will be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender will be consecutive to any other sentence you receive. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

**Acknowledgment of the Defendant**

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and surrender to serve any sentence imposed. I am aware of the penalties and sanctions set forth above.




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*Defendant's Signature*

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Charlotte, North Carolina

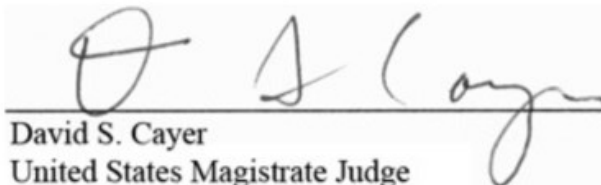
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*City and State*

**Directions to the United States Marshal**

- ☒ The defendant is ORDERED released after processing.
- ☐ The defendant is ORDERED released after Electronic Monitoring is in place.
- ☐ The United States Marshal is ORDERED to keep the defendant in custody until notified by the clerk or judge that the defendant has posted bond and/or complied with all other conditions of release. If still in custody, the defendant must be produced before the appropriate judge at the time and place specified.

Date: September 8, 2016




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David S. Cayer  
United States Magistrate Judge